

House Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 76

HOUSE BILL 2091

AN ACT

AMENDING SECTION 44-6561, ARIZONA REVISED STATUTES; RELATING TO THE
SOLICITATION OF FUNDS FOR CHARITABLE PURPOSES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 44-6561, Arizona Revised Statutes, is amended to
3 read:

4 44-6561. Unlawful acts or practices; violation; classification;
5 civil penalty

6 A. The following acts and practices are unlawful as applied to the
7 planning, conduct or execution of a solicitation and constitute unlawful
8 practices under section 44-1522 that the attorney general may investigate and
9 for which he may take appropriate action as prescribed by chapter 10, article
10 7 of this title:

11 1. Knowingly utilizing an emblem, device or printed matter belonging
12 to or associated with a charitable organization without first being
13 authorized in writing to do so by the charitable organization.

14 2. Knowingly utilizing a name, symbol or statement so closely related
15 or similar to that used by another charitable organization for the purpose of
16 misleading a solicited person.

17 3. Knowingly making a misrepresentation to a person that the person on
18 whose behalf a solicitation is being conducted is a charitable organization.

19 4. Knowingly making a representation to a person that another person
20 sponsors, endorses or approves the solicitation if the other person has not
21 given consent in writing to the use of his name for these purposes.

22 5. Knowingly representing to a person that the registration
23 constitutes an endorsement or approval by this state.

24 6. KNOWINGLY FAILING TO POST IN A CLEAR AND CONSPICUOUS MANNER AT A
25 LOCATION IN WHICH A CHARITABLE ORGANIZATION OR OTHER BUSINESS ENTITY RECEIVES
26 DONATED ITEMS FOR THE PURPOSE OF RESELLING THE ITEMS TO FINANCIALLY BENEFIT A
27 CHARITABLE ORGANIZATION ONE OF THE FOLLOWING STATEMENTS:

28 (a) THIS COLLECTION SITE IS OWNED BY [NAME OF CHARITY], A CHARITABLE
29 ORGANIZATION. DONATED ITEMS RECEIVED AT THIS LOCATION WILL SUPPORT THE
30 CHARITABLE MISSION OF [NAME OF CHARITY].

31 (b) THIS COLLECTION SITE IS OWNED BY [NAME OF COMPANY], A FOR-PROFIT
32 COMPANY. DONATED ITEMS RECEIVED AT THIS LOCATION WILL BE SOLD BY [NAME OF
33 COMPANY] WITH A PORTION OF THE PROCEEDS BENEFITTING [NAME OF CHARITY].

34 B. Except as provided in section ~~44-6652~~ 44-6552, subsection D or
35 subsection C of this section, a person who fails to register or provide
36 reports as provided by this article or who otherwise fails to comply with any
37 provision of this article is guilty of a class 1 misdemeanor.

38 C. A contracted fund raiser who knowingly conducts any act or practice
39 proscribed in subsection A of this section is guilty of a class 6 felony.

40 D. An independent solicitor who knowingly conducts any act or practice
41 ~~prescribed~~ PROSCRIBED in subsection A of this section or who fails to comply
42 with section 44-6555, subsection D is guilty of a class 1 misdemeanor.

43 E. In addition to the criminal offenses provided in subsections B, C
44 and D of this section, if a person conducts an act or practice proscribed in
45 subsection A of this section, the attorney general may recover from the

1 person on behalf of the state a civil penalty of not more than one thousand
2 dollars per violation. The civil penalty prescribed by this subsection is in
3 lieu of the penalty prescribed by section 44-1531.

4 F. FOR THE PURPOSES OF SUBSECTION A, PARAGRAPH 6 OF THIS SECTION, AN
5 ENTITY OWNS A COLLECTION SITE IF THE ENTITY RECEIVES AT LEAST FIFTY-ONE PER
6 CENT OF THE PROCEEDS GENERATED BY THE RETAIL SALE OF THE DONATED ITEMS
7 RECEIVED AT THE COLLECTION SITE.

8 Sec. 2. Effective date

9 This act is effective from and after December 31, 2009.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.